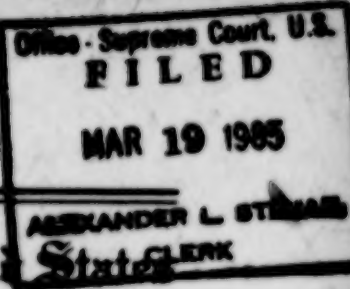


No. 94, Original ⁽²⁾



In the Supreme Court of the United States
OCTOBER TERM, 1984

STATE OF SOUTH CAROLINA, PLAINTIFF, AND
NATIONAL GOVERNORS' ASSOCIATION, PLAINTIFF IN
INTERVENTION

v.

JAMES A. BAKER III, SECRETARY OF THE TREASURY
OF THE UNITED STATES OF AMERICA

ON BILL OF COMPLAINT

ANSWER TO COMPLAINT IN INTERVENTION

REX E. LEE

Solicitor General

GLENN L. ARCHER, JR.

Assistant Attorney General

ALBERT G. LAUBER, JR.

*Assistant to the Solicitor
General*

MICHAEL L. PAUP

ERNEST J. BROWN

DONALD J. GAVIN

MICHAEL J. KEARNS

WILLIAM A. ROBERTS

Attorneys

Department of Justice

Washington, D. C. 20530

(202) 633-2217

In the Supreme Court of the United States

OCTOBER TERM, 1984

No. 94, Original

STATE OF SOUTH CAROLINA, PLAINTIFF, AND
NATIONAL GOVERNORS' ASSOCIATION, PLAINTIFF IN
INTERVENTION

v.

JAMES A. BAKER III, SECRETARY OF THE TREASURY
OF THE UNITED STATES OF AMERICA

ON BILL OF COMPLAINT

ANSWER TO COMPLAINT IN INTERVENTION

Defendant James A. Baker III, Secretary of the Treasury of the United States of America, by and through his attorneys, answers and responds to the Complaint of the Plaintiff in Intervention as follows:

1. Defendant admits the allegation in paragraph 1.
2. Defendant admits that paragraph 2 describes the relief requested by the plaintiff in intervention, but denies that plaintiff is entitled to such relief.
3. Defendant admits the allegations in paragraph 3.
4. Defendant admits the allegations in the first sentence of paragraph 4. Defendant lacks knowledge or information sufficient to form a belief as to the accuracy of the allegation in the second sentence of paragraph 4. Defendant admits the allegation, in the third sentence of paragraph 4, that the

governmental entities whose chief executives are members of the NGA issue tax-exempt bonds, but denies that Section 310(b)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), 26 U.S.C. 103(j), imposes any financial costs, legal constraints, or other burdens upon those entities.

5. Paragraph 5 of the Complaint in Intervention incorporates by reference paragraphs 1 and 2 of the Complaint filed by South Carolina. Defendant herein incorporates by reference paragraphs 1 and 2 of his Answer to the latter Complaint.

6. Paragraph 6 of the Complaint in Intervention incorporates by reference paragraphs 5 through 8 of the Complaint filed by South Carolina. Defendant herein incorporates by reference paragraphs 5 through 8 of his Answer to the latter Complaint.

7. Defendant admits the allegations in the first two sentences of paragraph 7. Defendant lacks knowledge or information sufficient to form a belief as to the accuracy of the allegations in the remaining sentences of paragraph 7.

8. Defendant lacks knowledge or information sufficient to form a belief as to the accuracy of the allegations in the first four sentences of paragraph 8. Defendant denies the allegations in the last sentence of paragraph 8. By way of further response to those latter allegations, Defendant herein incorporates by reference the second paragraph of paragraph 8 of his Answer to South Carolina's complaint.

9. The first sentence of paragraph 9 sets forth a contention of law which does not require a response. However, defendant notes that this contention appears to be based upon an interpretation of *National League of Cities v. Usery*, 426 U.S. 833 (1976), which has been overruled. *Garcia v. San Antonio Metropolitan Transit Authority*,

No. 82-1913 (Feb. 19, 1985), slip op. 2, 28. Defendant denies the remaining allegations in paragraph 9.

10. Defendant denies the allegations in the first sentence of paragraph 10. Defendant admits the allegation, in the second sentence of paragraph 10, that the Constitution allocates certain responsibilities between the federal government and the States, but denies that Section 310(b)(1) of TEFRA in any way impairs the States' ability to discharge their responsibilities. Defendant lacks knowledge or information sufficient to form a belief as to the accuracy of the allegations in the third and fourth sentences of paragraph 10. Defendant denies the allegations in the last two sentences of paragraph 10.

11. The first two sentences of paragraph 11 set forth contentions of law which do not require a response. Defendant denies the allegations in the third and fourth sentences of paragraph 11. Defendant admits the allegation, in the fifth sentence of paragraph 11, that a State would probably have to pay a higher interest rate if it chose to issue taxable, rather than tax-exempt, bonds. Defendant denies the allegation in the last sentence of paragraph 11.

ADDITIONAL DEFENSE

By way of further response to the Complaint of the Plaintiff in Intervention, defendant herein incorporates by reference the Additional Defense set forth in his Answer to South Carolina's Complaint.

WHEREFORE, defendant respectfully requests that the relief sought in the Complaint in Intervention be denied and

that defendant be granted such additional relief as this Court deems proper and necessary.

Respectfully submitted.

REX E. LEE
Solicitor General

GLENN L. ARCHER, JR.
Assistant Attorney General

ALBERT G. LAUBER, JR.
*Assistant to the Solicitor
General*

MICHAEL L. PAUP
ERNEST J. BROWN
DONALD J. GAVIN
MICHAEL J. KEARNS
WILLIAM A. ROBERTS
Attorneys

MARCH 1985